



THE CITY OF SAN DIEGO  
MAYOR JERRY SANDERS

M E M O R A N D U M

DATE: March 20, 2009

TO: Audit Committee

FROM: Mayor Jerry Sanders

SUBJECT: Recommendations for restructuring the oversight of Centre City Development Corporation and Southeastern Economic Development Corporation by the City of San Diego and the City of San Diego Redevelopment Agency

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Both Southeastern Economic Development Corporation (SEDC) and Centre City Development Corporation (CCDC) recently suffered major leadership failures that significantly affected their ability to conduct their missions and inspire confidence in the community. In light of these failures, the structure and operations of both corporations have been reviewed to determine what changes were necessary to repair the damage and prevent future problems. In SEDC's case, a performance audit was conducted that recommended major changes in its structure, internal controls and reporting requirements. In CCDC's case, a performance audit is currently underway. In both cases, it is clear that significant changes must be made in order to increase oversight and accountability.

BACKGROUND

The Redevelopment Agency contracts with three organizations to provide redevelopment services: (1) the Redevelopment Division of City Planning and Community Investment, which administers 11 project areas: Barrio Logan, City Heights, College Community, College Grove, Crossroads, Linda Vista, Grantville, Naval Training Center, North Bay, North Park, and San Ysidro; (2) CCDC, which was created in 1975 to implement redevelopment of downtown San Diego; and (3) SEDC, which was created in 1980 to implement redevelopment in the geographic area of southeastern San Diego. The City is the sole member of both CCDC and SEDC and the Redevelopment Agency has Operating Agreements with both corporations. Both corporations have adopted bylaws that govern their operations.

### *Centre City Development Corporation*

The City Council created the CCDC in 1975 for the expressed purpose of implementing the redevelopment of downtown San Diego. The City is the sole member of the corporation. The Agency has an operating agreement with CCDC to provide certain staff services and advice for the implementation of redevelopment projects in the Centre City area that includes two redevelopment project areas (Centre City and Horton Plaza). The CCDC FY2009 administrative budget includes 56.5 full time equivalent positions.

Sjoberg Evashienk Consulting Group is currently conducting a performance audit of CCDC operations, processes and procedures. The Chairman of the CCDC Board, Fred Maas is acting as the President on an interim basis. Recruitment to fill the paid position has been postponed until the results of the audit have been considered.

### *Southeastern Economic Development Corporation*

The City Council created the SEDC in 1980 for the expressed purpose of implementing economic and redevelopment within a geographic area of southeastern San Diego. The City is the sole member of the corporation. The Agency has an operating agreement with SEDC to provide certain staff services and advice for the implementation of redevelopment projects within a described geographic area that includes four redevelopment project areas (Central Imperial, Gateway Center West, Mount Hope and Southcrest). SEDC's geographic area of responsibility is larger than the boundaries of the redevelopment project areas. The Redevelopment Agency has an operating agreement with SEDC for the purpose of implementing economic development in this larger area. The SEDC FY2008 administrative budget includes 17 full time equivalent positions.

Macias Consulting Group completed a performance audit of SEDC to evaluate the efficiency and effectiveness of SEDC during the period FY 2005 through FY 2007. The audit uncovered a number of weaknesses in the areas of internal controls, transparency, budget expenditures, finance and accounting practices, record keeping, compensation practices, and general administrative policies and procedures.

Macias made a number of recommendations including some, such as additions to professional staff and Board training, which will put greater burden on the SEDC administrative budget. Another outstanding issue is the uncertainty of the outcome of the OIG/HUD audit relating to the use of CDBG funds and potential repayment schedules.

### ANALYSIS

When the crises at SEDC and CCDC developed, it became apparent that the City's and Agency's ability to quickly and effectively take the steps necessary to cure the corporations' problems was

hampered by the restrictive language in the Operating Agreements and bylaws of both corporations. Under the corporations' current Operating Agreements and bylaws, neither the City nor the Agency is empowered to make changes to the leadership, either the CEO or the Board of Directors. It also became apparent that increased City/Agency oversight of financial affairs and adherence to internal controls was needed along with increased training and professional activities.

The Mayor recommends that these two corporations remain non-profit corporations operating with appropriate independence. This recommendation is based upon the prior success of both corporations, especially CCDC, in the redevelopment of blighted areas, the need to attract specifically skilled employees, which can best be done with entities independent of the City, and the adverse impact on the communities if their redevelopment is folded back into a larger organization.

This recommendation is contingent upon the implementation of significant changes to the Operating Agreements and bylaws of the corporations as set forth below and presumes the continued financial viability of SEDC, which is of concern because of an outstanding HUD/OIG audit which may require repayment of CDBG funds from tax increment proceeds generated by project areas managed by SEDC. This approach can achieve cost savings through increased efficiencies and with the greater annual tax increment revenue that can be generated by specifically focused corporations.

This memorandum outlines proposed amendments to the bylaws and in some cases to the Operating Agreements that the Mayor recommends based upon the SEDC audit, other agency structures, and business oversight and accountability best practices. In summary, it is recommended that similar to other City appointees where the Mayor is held responsible for the execution of their office, the Mayor appoint each corporation's CEO (including input from the City Council and Corporate Boards as described in the procedures outlined in Recommendation 1), subject to City Council confirmation. This is necessary to provide direct oversight, increased adherence to City policies, and clear lines of accountability. In addition, it is recommended that the Mayor be authorized to terminate each corporation's CEO, with appeal rights to the Council, similar to the procedure in the Charter for the Fire Chief and Police Chief, in order to hold each CEO and corporation accountable to its mission and proper financial practices and procedures. Further, based upon the SEDC audit, it is recommended that the Mayor and City Council both designate voting members to each Corporation Board of Directors, subject to review by the City Attorney that such appointments are legal. In addition, the Mayor recommends adoption of a series of changes to implement financial controls, along with required training of Board members in ethics and conflict of interest law as recommended by the Macias Consulting Performance Audit.

It is also recommended that further changes beyond what is described in this report be considered when the CCDC Performance Audit is completed.

## RECOMMENDATIONS

The Mayor recommends the following:

The City Council and Redevelopment Agency direct the City Attorney's office to work with Redevelopment staff to amend the Operating Agreements, bylaws, and Articles of Incorporation for both CCDC and SEDC to incorporate the following:

1. Designate the Mayor as the appointing authority of each corporation's CEO, subject to City Council confirmation, and grant the Mayor termination authority, subject to a right of appeal to the City Council. Include the creation of candidate selection committees for each CEO search to be comprised of 1 Mayoral representative, 2 members of the City Council, and 2 members of the Corporation. The selection committee shall screen potential candidates and provide the Mayor with not less than 4 candidates to select from. The Mayor may select one of the forwarded candidates, or may reject the applicants and require a new recruitment process
2. Expand the corporation Boards of Directors to include a voting member appointed as a Mayoral appointee and a voting member appointed by the City Council
3. Corporation boards shall adopt purchasing and contracting policies that establish limits for staff level approval of contracts and provide for timely public disclosure of such executed contracts
4. City has the right to inspect all documents and records, including but not limited to, financial records and personnel records, at a reasonable time to be established but no later than 10 days after written request by the City
5. City has right to order a performance audit, to be paid for in full by corporation, no more than once per year
6. Corporations shall perform annual financial audits and submit them to the City
7. Corporations must follow City administrative budget policies in any administrative budget submissions. Any submission must first be submitted to the City CFO for review prior to submission to Redevelopment Agency
8. Mayor has right to suspend and recommend removal by the City Council of any corporation board members, based upon any breach of operating agreement
9. Any violation of City policies constitutes breach of the Operating Agreements
10. Corporation Board member training in ethics, fiduciary duties and governance shall occur every 2 years with submission to City CFO of training certificate
11. Corporation Board must approve all internal contracts and fiscal policies before submission to City CFO for approval
12. Any line item transfers of budgeted funds must be approved by corporation board on a monthly basis
13. Corporation board must approve total compensation to senior officers annually, including salary, benefits, and performance pay

14. Corporation board must develop and approve a Personnel Manual that is updated annually
15. Corporation board is required to review financial statements and verify with certification by board, CFO, and CEO
16. Corporation board is to review and approve monthly financial statements, presented by the Corporation CFO, comparing actual to budget with any variance fully disclosed and explained. These statements are to be submitted to the City CFO
17. Corporation Boards of Directors must follow redevelopment law

The City Council and Redevelopment Agency direct SEDC to:

18. Immediately initiate and complete changes to SEDC-controlled policies and procedures recommended by the Macias Consulting Performance Audit
19. Implement the recommendations included in the Macias Consulting Performance Audit of SEDC, except the recommendation that the CFO report to the corporation board directly (see explanation in section below)

## DISCUSSION

As stated, a special audit of SEDC has been completed and the Mayor agrees with all the recommended changes, except the recommendation to have the CFO report directly to the corporation boards of directors. The audit recommendation grew out of the fact that the former SEDC CEO often prevented the CFO from reporting to the Board on important financial matters. The solution to this problem is best addressed through recommendations 16 and 17, in which the CFO is charged with certifying the financial statements and presenting them to the corporation boards of directors. This also provides clear lines of authority.

Finally, SEDC and CCDC have been subjects of an audit by OIG/HUD, the results of which are not yet final. The outcome of that audit could significantly challenge the financial viability of SEDC.

## CONCLUSION

The clearest path to ensuring accountability of SEDC and CCDC while simultaneously ensuring effective, community based redevelopment services is to clarify the Mayor's and Agency's roles in the oversight of the chief executives, add Mayoral and City Council representatives to the corporation boards, amend the Operating Agreements and bylaws to increase reporting and transparency, and direct SEDC to comply with all appropriate directives from the Performance Audit.

JS/jd/pr

Attachments:

City response to Macias Consulting SEDC Performance Audit

cc: City Council  
Jan Goldsmith, City Attorney  
Eduardo Luna, City Auditor  
Jay M. Goldstone, Chief Operating Officer  
Mary Lewis, Chief Financial Officer  
Andrea Tevlin, Independent Budget Analyst  
William Anderson, Director, City Planning and Community Investment  
Janice Weinrick, Deputy Executive Director, City of San Diego Redevelopment Agency



## THE CITY OF SAN DIEGO

September 8, 2008

Mr. Eduardo Luna, City Auditor  
1010 Second Avenue, Suite 1400  
San Diego, CA 92101

Dear Mr. Luna:

The Office of the Mayor has reviewed the Preliminary Draft Report on the Southeastern Economic Development Corporation Performance Audit of Operations and is in agreement with the findings and recommendations. Specific responses to the recommendations are presented below.

### **RECOMMENDATION 1:**

The City should revamp SEDC's governance structure. Options to consider include: (1) amend and update SEDC's operating agreement to include representatives of the City on the SEDC Board, limitations to the SEDC President's authority; and specific requirements for holding Board of Director meetings, budgeting practices, communication activities, project management, financial management, performance outcomes, mandating leave utilization, and defining the requirements for SEDC Board of Director training; (2) depending on the results of the anticipated CCDC study, integrate/merge SEDC under the direct control of the RDA or integrate SEDC with CCDC; or (3) have SEDC fully operate as a public agency within the City.

### **MANAGEMENT RESPONSE:**

Agree. The Operating Agreement between SEDC and the City should be revised to include many of the changes suggested by this audit. The Mayor will make recommendations on the implementation of the findings of this audit and other changes to the Operating Agreement that may be appropriate. SEDC should continue to operate as a separate agency; however, the Board should be expanded to include direct representation from the City. The two new board members should be one representing the Mayor's office and one representing the City Council.

### **RECOMMENDATION 2:**

The City should require in SEDC's Operating Agreement the position classification of a Chief Financial Officer that reports to the Board of Directors and fill the newly created position through competitive and open recruitment.

### **MANAGEMENT RESPONSE:**

Partially agree. The SEDC Board should (1) review this recommendation, including the suggested reporting structure, and report its decision to the Mayor within 90 days, and (2) fill any open financial position through open and competitive recruitment with qualified financial professionals.



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**RECOMMENDATION 3:**

The SEDC Board should approve all salary increases to the SEDC President. Incentive pay increases should be documented in the SEDC contract with the President and directly tied to annual performance evaluations provided by the full Board of Directors.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 4:**

SEDC should fill the Manager of Projects and Development as soon as possible.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 5:**

SEDC should fill a Vice President position to help oversee day-to-day operations and be responsible for SEDC's adherence and compliance to internal controls.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 6:**

SEDC should establish a part-time formal Human Resources Manager position to oversee SEDC's recruiting, hiring, staff development, and termination activities.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 7:**

SEDC should ensure that its Board of Directors receives all the training necessary to fully perform their fiduciary responsibility of the Agency.

**MANAGEMENT RESPONSE:**

Agree. The City will require Board training for SEDC in good governance and in the board's execution of fiduciary responsibility in the revised operating agreement.

**RECOMMENDATION 8:**

SEDC should immediately develop policies and procedures for ensuring proper recordkeeping and storage that include:

- Documentation of Board member opposition to Board motions and activities and inquiries for information.
- Preparation of the Board minutes should be accomplished within specific time frames, and posted on the Agency's website.
- Tape recordings of SEDC Board minutes should be maintained in locations fully accessible by the public.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 9:**

SEDC should require the reporting of quarterly expenditure reports for professional and technical services to the SEDC Board of Directors that include the types of services provided.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 10:**

SEDC, in conjunction with the City's Personnel Department, should develop formal procedures for approving pay-outs of accrued leave, including the requirement of the SEDC Board of Director's approval for leave buy-outs of SEDC executive officers.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 11:**

SEDC should develop policies for expenditure allowances. These policies should define the types of allowable and unallowable expenditures. These policies should be streamlined with City policies and take into consideration that the money being utilized are public funds and should not be used for non-governmental business.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

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**RECOMMENDATION 12:**

SEDC should formalize policies and procedures that describe the segregation of duties for the fiscal operations and authorization procedures.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 13:**

SEDC should amend its merit pay policy and establish maximum amounts that can be awarded.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 14:**

SEDC should ensure that all policies are approved by the SEDC Board of Directors.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 15:**

SEDC should amend its consultant policy and lower the threshold that would trigger SEDC Board of Director approval for professional and technical services contracts/letters of agreement to \$10,000.

**CITY RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 16:**

SEDC should eliminate the authority provided to the SEDC President to implement agency policies at her discretion.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 17:**

The City's Office of the Chief Financial Officer should review and approve of SEDC's newly developed fiscal policies and procedures prior to their finalization.

**MANAGEMENT RESPONSE:**

Agree. The City's Chief Financial Officer will review and approve newly developed fiscal policies prior to adoption by the SEDC Board. Once approved by City Management, these policies will be presented to the Audit Committee.

**RECOMMENDATION 18:**

SEDC should discontinue all forms of supplement income payments to SEDC staff, except for merit pay as described under current policies.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 19:**

SEDC should report on a monthly basis, a financial position report to the Board of Directors. This report would show current expenditures as they relate to each budget line item. This would include a report of current financial status as compared to the budget.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 20:**

The new SEDC Chief Financial Officer, in the budget presentation to the Board and supplementary submission to the City, should include a minimum of three years of budget versus actual data for revenues and expenditures, for both project budgets and corporate budgets, including variances. The budget should include detailed and precise information on base salary and other forms of compensation by employee position, and estimated overtime.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 21:**

The SEDC Chief Financial Officer should include project goals and accomplishment information by project to be incorporated into the budget presentation. Having this information will allow SEDC to tie program goals and objectives to their budget.

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**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 22:**

The SEDC Board of Directors should ensure that cost of living increases that are provided to SEDC employees are consistent with City cost of living increases.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 23:**

SEDC should clarify and further develop its real estate acquisition policy. This should include, but not necessarily limited to, detailing when SEDC should use Request for Proposal and when it should go back to its Board of Directors or the City Redevelopment Agency Board for subsequent approval of acquisitions.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 24:**

SEDC should correlate implementation plan goals with redevelopment plan goals and present the revised documents for formal Board approval.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 25:**

Annual work plans should include timeframe for completion of work plan tasks.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 26:**

Accomplishment reports should link specific accomplishments back to the operational goals in project area work plans. They should also discuss the remaining work left to be completed.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 27:**

In accordance with best practices, SEDC should develop an agency-wide strategic plan. This process should include City and community outreach to solicit strategic planning feedback.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 28:**

SEDC should ensure the agency wide strategic plan is linked to the Mayor's vision for the City.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 29:**

SEDC should make its consultant selection process more transparent by: (a) documenting consultant need in the files, including a justification for selecting a sole source consultant, when such a consultant is used; and (b) In accordance with SEDC's policies and procedures, the President should disclose all consultant contracts that are entered into at the Board of Directors monthly meeting immediately following the execution of the contract.

**MANAGEMENT RESPONSE:**

Agree. The SEDC Board should report its decision whether to implement this recommendation to the Mayor within 90 days.

**RECOMMENDATION 30:**

The City should consider examining the feasibility and the extent to which supplemental compensation that was not properly authorized should be reclaimed by the City.

**MANAGEMENT RESPONSE:**

Agree. Pending the outcome of the final audit report, Management will meet with the District Attorney and/or City Attorney as appropriate.

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**RECOMMENDATION 31:**

The City should determine the full impact of 403B contributions on the City stemming from the supplemental compensation increases.

**MANAGEMENT RESPONSE:**

Agree. The City will discuss the potential impact supplemental compensation increases might have on 403B contributions and will take appropriate steps to correct, if necessary.

**RECOMMENDATION 32:**

The City's Internal Auditing function should conduct an audit within 18 months to review the status of SEDC's efforts to implement the recommendations contained in this report.

**MANAGEMENT RESPONSE:**

Agree. This will become part of the City Auditor's workplan.


**RECOMMENDATION 33:**

The City should examine the appropriateness of SEDC contribution activities.

**MANAGEMENT RESPONSE:**

Agree. The City will require that SEDC's newly developed fiscal policies and procedures include guidelines and restrictions on the gift of public funds. In addition, the City will examine past contributions to determine if any state or local laws or regulations were violated.

Sincerely,



Jay M. Goldstone  
Chief Operating Officer

Cc: Honorable Mayor Jerry Sanders  
Honorable City Council President and Councilmembers  
City Attorney Michael Aguirre